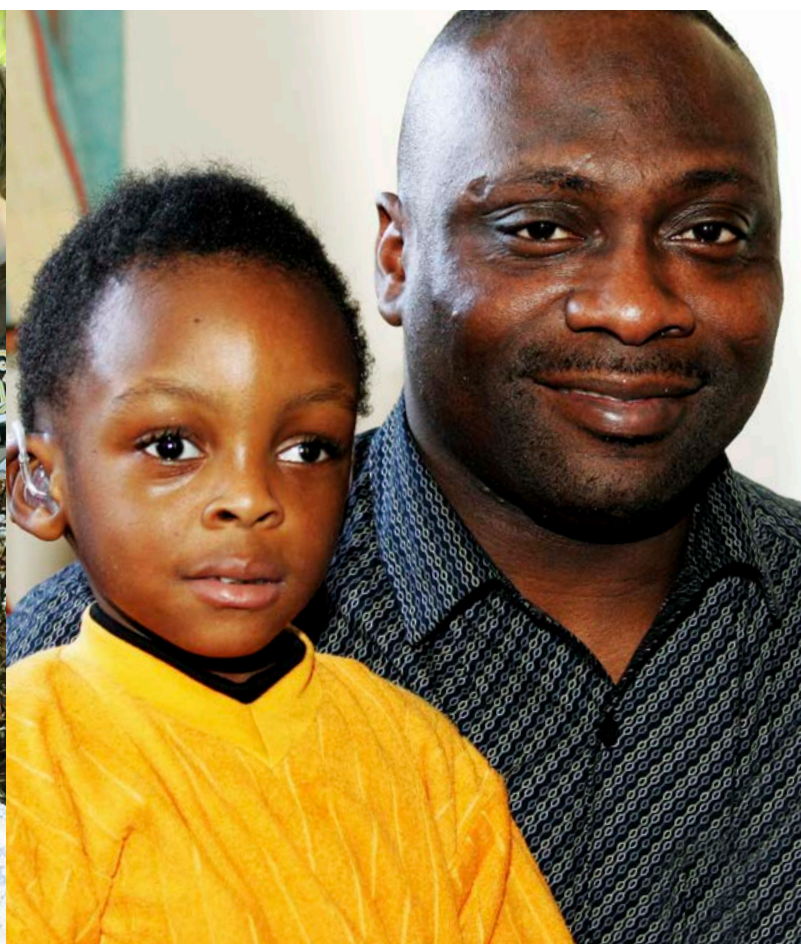


# Know your rights: Getting support from your local council in England



Our vision is a world  
without barriers for  
every deaf child.

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We use the term ‘deaf’ to refer to all types of hearing loss from mild to profound. This includes deafness in one ear or temporary hearing loss such as glue ear.

We use the term ‘parent’ to refer to all parents and carers of children.

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## Introduction

This resource looks at the legal rights you and your deaf child might have to practical help with things like equipment and communication support from your local council.

Support from your local council can involve anything that will help meet the ‘eligible needs’ of your child and family (for more information on eligibility go to page 10). For example:

- technology to help keep your child safe and independent at home – such as vibrating smoke alarms/doorbells or a pager system
- financial help to communicate with your child, such as learning sign language
- a communication support worker who can support your child in the community
- travel training to help your child use public transport independently
- information on local services that are accessible to disabled children and their families.

For more information on what your local council offers disabled children, go to its website ([www.gov.uk/find-your-local-council](http://www.gov.uk/find-your-local-council)) and search for ‘disabled children’ or ‘Local Offer’.

If you’re looking for information on rights in other areas such as health or education please visit [www.ndcs.org.uk](http://www.ndcs.org.uk) or call our Freephone Helpline on 0808 800 8880.

This resource is for families living in England. If you live in Northern Ireland, Scotland or Wales please read our equivalent resource for your nation.

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## Local councils – key duties

The law (see page 15) says that all local councils must provide certain services (known as key duties) for disabled, including deaf, children and their families. These key duties include:

- Making sure disabled children can use all the services that the local council provides for all children.
- Providing information about services in their area that may benefit disabled children and their families. This is called the ‘Local Offer’ and covers young people with special educational needs and disabilities up to the age of 25.
- Providing services to parents of disabled children to give them a break from their caring role.
- Providing services which “minimise the effect on disabled children within their areas of their disabilities” and support them to “lead lives as normal as possible”<sup>1</sup>.
- Making sure there is enough accessible childcare so that parents of disabled children can work or study.

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<sup>1</sup> Children Act 1989 Schedule 2 paragraph 6.

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## How do I get help?

Before you can get help from your council you'll usually need to have an assessment. An assessment will look at how your child's deafness affects them and the rest of your family, and whether they meet the threshold for being offered support. Where possible a worker will speak to your child in an assessment to get their views.

There are two main types of assessment:

**Early help assessments** are usually led by a professional who's already involved with your child e.g. a teacher or a health visitor. They'll coordinate a support plan and make sure other professionals are doing what they've agreed. This assessment is unlikely to lead to support such as technology or communication support – these are often only available after a statutory assessment.

This approach is voluntary – you can refuse or end it at any time and instead ask for a statutory assessment.

**Statutory assessments** are supported by the law, and there's government guidance on how they should be carried out<sup>2</sup>. These assessments are usually carried out by a worker from the disabled children's team.

### Carer's assessments

If you don't think your needs as a parent have been taken into account in a statutory assessment, you have a legal right to ask for your own assessment of need. This is called a carer's assessment. For more information on carer's assessments contact Carers UK (0808 808 7777, [www.carersuk.org](http://www.carersuk.org)).

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## Do I have a right to help?

The Children Act 1989 places a general duty on local councils to provide services to promote the welfare of 'children in need' in their area.

'Children in need' includes 'disabled children', and the Act includes deaf children in its definition of 'disabled'.

However, local councils are allowed to set criteria to help them target support to children and families who they think need it most. This means that your child may not receive support if they don't meet the local eligibility criteria (see page 10).

So whether you have a right to help will depend on what your local criteria says.

We would always advise you to ask the local council for help and for an assessment of your needs if you think it would help you and your child (see page 7).

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2 *Framework for the Assessment of Children in Need and their Families* (available at [ow.ly/10z0oe](http://ow.ly/10z0oe)).



## **Case study: the Byrne family's experience of getting support from their local council for their son, Henry (7), who's deaf**

When an audiologist offered to refer us to a specialist social worker for the deaf we had reservations. There's a stigma attached to being involved with social services. But we accepted the referral and were seen after four weeks.

The social worker came to our home for about an hour while Henry was at school. She asked us about Henry and what we wanted for him.

I explained Henry had trouble sleeping because of his tinnitus, refused to use the school toilets because they were 'echoey' and struggled with being alone at home even to use the toilet or play in his room. I also said Henry was very keen to learn sign language.

The social worker gave us some practical advice and suggested strategies for helping with Henry's sleep and toileting problems, and his fear of being on his own. She also arranged for us to have some equipment such as a streamer Henry could use to help him hear the TV and his iPad.

After meeting Henry the social worker agreed to ask her manager for funding for sign language lessons, but said she couldn't promise anything.

Two weeks later the equipment was delivered, and two weeks after that the social worker called to say we had got funding to learn sign language. A local charity would deliver six Family Sign Language lessons in our home. The lessons were brilliant and really improved Henry's confidence – he enjoyed teaching his friends fingerspelling.



**“ It takes guts to ask for help and parents should be proud they're doing everything they can to help their child. ”**

We saw the social worker once during those six weeks and then twice more. After that we were discharged, but told we could self-refer ourselves in the future if we felt we needed help again.

If any other parents think they would benefit from some expert advice or help with equipment or funding I would encourage them to contact social services. Being involved with social services is nothing to be ashamed of. It takes guts to ask for help and parents should be proud they're doing everything they can to help their child.



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## **How do I ask for an assessment of my child's needs?**

You can contact your local council ([www.gov.uk/find-your-local-council](http://www.gov.uk/find-your-local-council)) yourself and ask for an assessment for your deaf child – contact details should be on their website. If you want to make your request more formal you could use our template letter on page 17.

You could also ask a professional such as a GP or a Teacher of the Deaf to contact the council for you and refer your child for an assessment.

## **What if they refuse to assess my child's needs?**

If the council refuses to assess your child's needs, explain that your child is disabled and legally entitled to have an assessment. If you haven't already, you can formally request an assessment in writing (see our template letter on page 17).



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## How can I prepare for an assessment?

**Have you been given information on the aims of the assessment? If not ask for it.**

**Does the person doing the assessment have the right experience and communication skills to properly assess your deaf child and family? If your child uses British Sign Language (BSL) as their first language it would be reasonable to expect the worker to have an NVQ Level 3 BSL qualification or to provide a qualified sign language interpreter for the visit.**

**Make sure your child knows that the person doing the assessment might want to talk to them on their own (if your child is old enough). Help them prepare for this and think about what they want to say.**

**You could read our guide, *Social Care for Deaf Children and Young People* (see page 18). It's aimed at professionals but will help you get ready for the assessment and get the most out of it. You could also give a copy to the person doing the assessment (either before or at the assessment).**

**Write down any questions you have beforehand to make sure you don't forget anything.**

**Have you used our Technology Test Drive service\* and found a piece of equipment that works well for your child? Make sure you have the details ready so you can ask for it at the assessment.**

\*Technology Test Drive allows your child to try out different types of equipment to see what works best for them. For more information visit [www.ndcs.org.uk/technology](http://www.ndcs.org.uk/technology) or call our helpline.



## How long should it take?

Once your council accepts a referral from you, or from another professional with your permission, an assessment should be completed within a maximum of 45 working days, although it could be completed much sooner. Assessments should be proportionate, meaning that they should match the level of need and not be too detailed or complicated.

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## What happens during an assessment?

Assessments usually take place in your own home, and should be led by a worker from your local council's children with disabilities team.

The worker will ask you, and your child (if it's appropriate), some questions about their development, any extra help they need because of their deafness, and the impact this has on them and their family.

Family members and other professionals who work with your child may be asked to contribute to the assessment to get a full picture of your child's needs. However, the worker must get your, and possibly your child's, permission before involving them.

You and your child should be given the opportunity to comment on the completed assessment, and your views should be included in the final version – including any areas of disagreement.

## Top tips to get the most out of an assessment



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## Will I be offered help?

Local councils are allowed to use eligibility criteria to help them target support to children and families who the council think need it most.

Councils only have a duty to provide a service to a child who is assessed as having needs that meet their eligibility criteria. This may mean your council won't meet any, or will only meet some, of the needs identified in your child's assessment.

Each council must explain its eligibility criteria clearly and must take into account the impact of disability on individual children and families. Eligibility shouldn't be based only on a simple rule of how severe a child's disability is, such as their level of deafness.

You should be able to find your local council's eligibility criteria in their 'Local Offer'. You can find this online by searching the local council's name and 'Local Offer'. You can also ask your council to send you a copy.

If your child meets the eligibility criteria of your local council, the agreed support will be summarised in a support plan which outlines your child's (and family's) needs and the services that the council will provide.

If your child doesn't meet the eligibility criteria you should still be given information about community services that might be able to help.

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## How is help given?

If your council agrees your child has needs that meet its eligibility criteria, it may offer:

- to provide the service or equipment from within the council
- to give you money through a direct payment so you can find and buy the service or equipment yourself
- a Personal Budget for you to buy the service or equipment from a set budget held by the council.

A direct payment is money paid to parents to give them greater choice and flexibility in how they access goods and services. Deaf 16 or 17-year-olds may be eligible for a direct payment in their own right.

A Personal Budget is a pot of money held by the council to meet the estimated costs of the services it has agreed to provide. Young people or parents can choose to take their Personal Budget as a direct payment or ask the council to arrange services for them (or a combination of the two).

Whether you take up the offer of a direct payment or a Personal Budget is up to you. If you decide you would like to, you'll have to follow certain rules to make sure the direct payments are spent on meeting your child's assessed needs, but you (or your child) should be offered help to manage this.

Direct payments don't affect any welfare benefits you may be receiving.

For more information you could read *Getting Direct Payments to Buy Social Care for Your Disabled Child – England and Wales* from Contact a Family (0808 808 3555, [www.cafamily.org.uk](http://www.cafamily.org.uk)).

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## **Will I be charged?**

Councils can charge for any services they provide from their children with disabilities team but they must take into account the income and circumstances of parents (or young people aged 16 or 17) before doing so.

In practice, most councils don't charge parents or children for the assessed services they provide. If you disagree with your council's decision to charge you for a particular service and/or you feel the cost is too much, you can make a complaint – see page 12.

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## **How are services reviewed?**

The council has a duty to review your child's support plan to check that it's meeting the needs identified in the assessment. The first review meeting is after three months and all following reviews take place every six months. A review meeting isn't usually needed if only equipment has been provided.

The council should contact you to arrange the review, but you can ask for a review at any time if you feel your child's needs have changed significantly.

A service can only be stopped or reduced if a re-assessment of your child's needs has found that their needs have changed. A re-assessment should include talking to you, your child and all relevant professionals.

## **Transitions: planning for adulthood**

If your child is receiving services from the children with disabilities team and has a statement of special educational needs or an Education, Health and Care (EHC) plan, a professional from the children with disabilities team should be invited to your child's Year 9 (age 13–14) annual review (called a transition review). This is an opportunity for the council to decide if your child is likely to need support from adult services when they leave school and/or turn 18, and to plan accordingly.

Even if the children with disabilities team isn't providing any services it should still be made aware of the Year 9 transition review. This gives the council the opportunity to provide information to parents and young people about possible support available as they move towards adult services.



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## What if I want to make a complaint?

Most local councils have a three stage internal complaints process.

1. Contact the worker from the children with disabilities team who did your child's assessment, or their manager, if you disagree with a decision. Make it clear that you're making a complaint. You should be given information about the complaints process at this stage.
2. If you're not happy with their response, the second stage is often investigated by a service manager.
3. If you're not satisfied with this, the third stage usually involves an independent panel looking at your complaint.

If you're still unhappy, you can make a complaint to the Local Government Ombudsman (LGO) (0300 061 0614, [www.lgo.org.uk](http://www.lgo.org.uk)). The LGO can investigate if local councils have followed the correct procedures in reaching their decisions. However, it can't investigate a complaint where the local council has made a decision that follows its rules but which you disagree with.

### Other ways to complain

You can talk about your complaint with a local councillor, MP and/or get legal advice at any time.

Children or young people who want to make a complaint about an assessment/service/worker from the local council must be offered an advocate. An advocate is a specialist worker independent from the local council whose role is to help children and young people express their views.

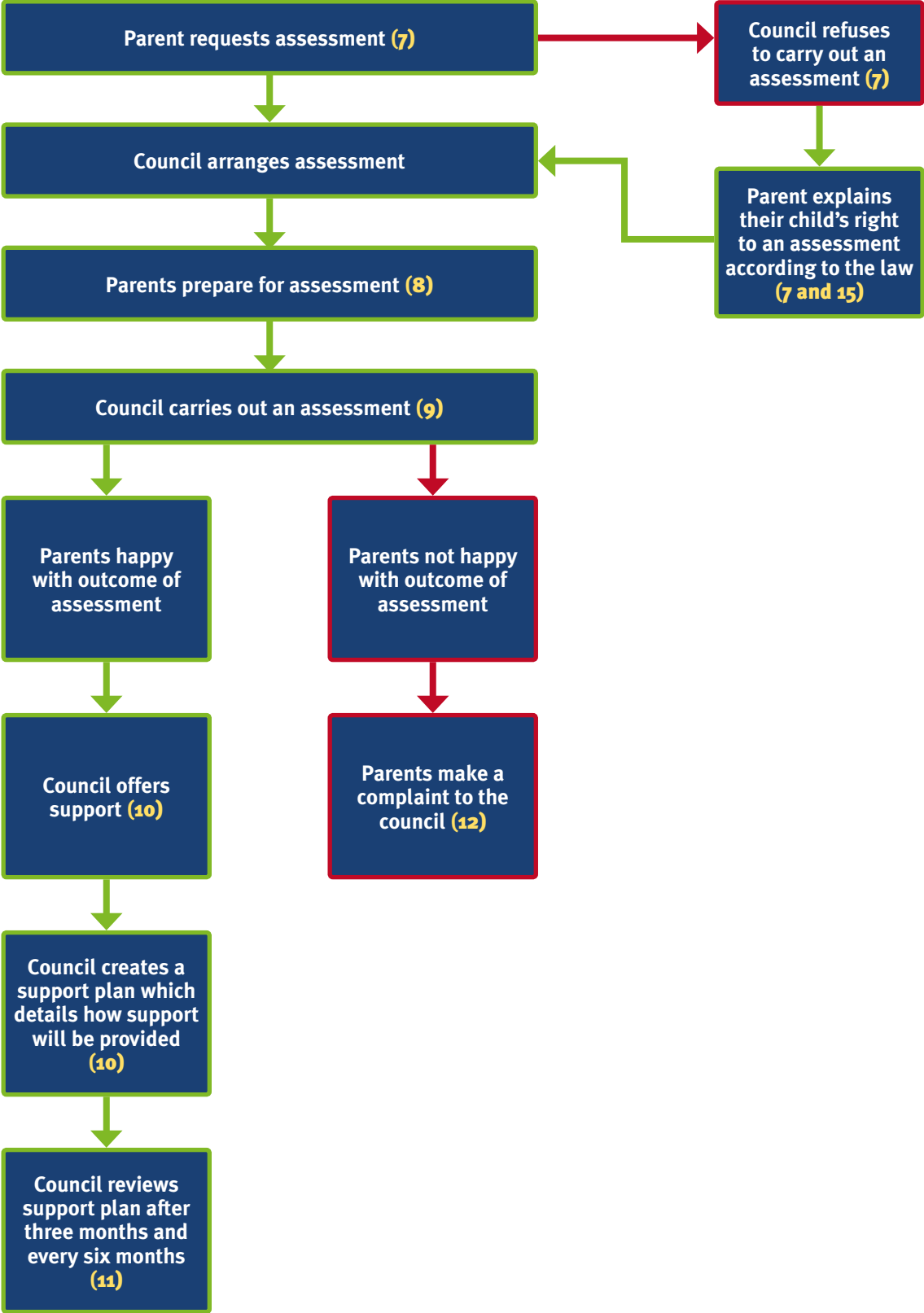
The Children's Commissioner (0800 528 0731, [www.childrenscommissioner.gov.uk/learn-more/help-at-hand](http://www.childrenscommissioner.gov.uk/learn-more/help-at-hand)) can give help and advice to children who are receiving a service, or have been refused a service, from their local children with disabilities team.

Where it's felt that a local council has made a decision which is wrong in law (not just a decision you disagree with) then this can be legally challenged in the courts. In urgent cases you may not need to go through the council's usual complaints procedure before making a legal challenge.

If you'd like more information or support on what to do if you're not happy with a local council decision, contact our helpline.

# Statutory assessments – key stages

(X) = page number with more detail on the key stage







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## Deaf children and the law

It's important to be aware of the laws giving your deaf child a right to support from their local council so that you know what your child is entitled to.

You might also want to reference the law in discussions or complaints with your local council. Sometimes just showing that you're aware of your legal rights may mean that the local council will take you more seriously.

All the laws below recognise a deaf child as 'disabled'.

### English law

#### The Children Act 1989 (section 17)

- Local councils have a general duty to provide services to 'children in need'.
- Disabled children are recognised as 'children in need'.
- Deaf children are specifically mentioned within the definition of a disabled child.
- Local councils have a general duty to provide services to support disabled children with their disability and to help them to lead lives as enjoyed by all other children.
- In principle, following an assessment almost any service can be provided to the child and their family if it's felt this is needed to promote the wellbeing of the child or young person.

#### The Chronically Sick and Disabled Persons Act 1970

- Lists services local councils can provide to disabled people to support them to live independently and access recreational and community activities enjoyed by everyone.
- Services can include meals, transport, holidays, home or community-based short breaks (such as playschemes, holiday clubs and after school clubs), and home adaptations.

#### The Children and Families Act 2014

- Parents of disabled children have a right to ask for an assessment of their needs. Local councils must carry this out if they feel a disabled child may benefit from services under section 17 of the Children Act 1989.
- Councils must publish a 'Local Offer' of the support they expect to be available in their area to disabled children, as well as children with special educational needs.

#### The Care Act 2014

- Disabled young people approaching adulthood have a right to ask for an assessment of their needs. Local councils must carry this out if they believe the young person is likely to have care and support needs when they become an adult.

## UK law

### Equality Act 2010

- All permanently deaf children are recognised as disabled and protected under this law.
- All public (including local councils) and private organisations must make ‘reasonable adjustments’ so that disabled children can access all the facilities and services that are enjoyed by all people.
- All local council services for children such as children’s centres, play and leisure activities should be accessible to disabled children unless there are good reasons why this isn’t possible.

### Human Rights Act 1998 (Article 8)

- Sets out rights to a ‘family life’ and a ‘private life’.
- Gives disabled children the right to ‘function socially’ and therefore the right to receive services that enable them to do this.

All these laws can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk).

## International law

### United Nations (UN) Convention on the Rights of the Child

### UN Convention on the Rights of Persons with Disabilities

- Disabled children should be supported to reach their full potential by supporting them to express their views, socialise with their peers and fully participate in cultural, recreational and leisure activities enjoyed by all children.

Both these conventions can be found at [www.un.org](http://www.un.org).

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## Template letter to request an assessment of need for your deaf child

*(Italics indicate where you should insert and delete as appropriate)*

*Your name*

*Your address*

*Your contact number*

*Your email address*

*Date you wrote/sent letter*

Director of children's services

*Address – check your local council's website*

Dear Sir/Madam

Re: Request for an assessment of need.

My *(son/daughter)*, *(insert your child's name and date of birth)* is deaf *(add details of any other needs e.g. cerebral palsy)* and is therefore entitled to an assessment of *(his/her)* needs under section 17 of the Children Act 1989, and may also be entitled to services under section 2 of the Chronically Sick and Disabled Persons Act 1970 which could support *(him/her)* at home and in the community. I know that there are lots of ways that technology, special equipment and communication support could make my deaf child's life easier.

I would like an assessment to consider what social care support could be given to help *(him/her)* be more independent.

*(optional)*

I would also like the local council to consider if there is any support that *(I/we)* as parent *(carer/s)* can get to help meet *(insert your child's name)*'s needs under section 17 ZD of the Children Act 1989.

I look forward to your reply.

Yours faithfully

*Signature*

*Print name*



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## How we can help

For more information and practical support on issues related to your child's deafness visit our website ([www.ndcs.org.uk](http://www.ndcs.org.uk)) or contact our Freephone Helpline:

- 0808 800 8880
- [helpline@ndcs.org.uk](mailto:helpline@ndcs.org.uk)
- [www.ndcs.org.uk/livechat](http://www.ndcs.org.uk/livechat).

If you prefer to speak a language other than English, you can call our helpline and tell us your preferred language and phone number (in English) and we'll call you back with an interpreter within minutes.

## Useful resources

*Social Care for Deaf Children and Young People*  
[www.ndcs.org.uk/socialcareresources](http://www.ndcs.org.uk/socialcareresources)

*How Technology Can Help*  
[www.ndcs.org.uk/technology](http://www.ndcs.org.uk/technology)

National Deaf Children's Society's *Social Care Position Statement for Services in the UK*  
[www.ndcs.org.uk/statements](http://www.ndcs.org.uk/statements)

You can also request copies of all these resources from our helpline.

*Getting Social Care Services When Your Child has Additional Needs – England*  
Available from Contact a Family (0808 808 3555, [www.cafamily.org.uk](http://www.cafamily.org.uk)).



**The National Deaf Children's Society is the leading charity dedicated to creating a world without barriers for deaf children and young people.**

**Freephone Helpline: 0808 800 8880 (voice and text)**

**helpline@ndcs.org.uk**

**www.ndcs.org.uk/livechat**

**www.ndcs.org.uk**



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Give us your feedback by emailing your comments to [informationteam@ndcs.org.uk](mailto:informationteam@ndcs.org.uk).

